

AMENDED IN ASSEMBLY MARCH 3, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1545

Introduced by Assembly Member Gray

January 23, 2014

An act to amend Sections ~~11106~~, 27570, and 28000 of, and to add Section 27965 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1545, as amended, Gray. Firearms: ownership.

Existing law generally regulates the ownership and transfer of firearms. Existing law requires the Attorney General to maintain a registry of specified information concerning the sale, lease, or transfer of firearms, and to include in the registry specified data provided to the Department of Justice. Existing law also authorizes a person who is exempt from specified registration requirements or who moves out of state to report information regarding the acquisition, ownership, destruction, or disposal of a firearm to the Department of Justice in a format prescribed by the department.

Existing law also requires every firearms dealer to maintain a register or record of electronic transfer of firearms, except as specified, in a form prescribed by the department, including, among other information, the name, occupation, and gender of the purchaser. Existing law requires both parties to the sale, loan, or transfer of a firearm to complete the transaction through a licensed firearms dealer, as specified, if neither party to the transaction holds a dealer's license.

This bill would create an exemption from this requirement to complete a firearms transaction through a licensed dealer for a person who reports his or her ownership of a firearm to the department. The bill would

require the department to register the firearm within 30 days of the receipt of the report, subject to specified restrictions. The bill would also apply those restrictions to a person who is exempt under existing law from the requirement to complete a firearms transaction through a licensed firearms dealer or who moves out of state with the firearm.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. ~~Section 11106 of the Penal Code is amended to~~
2 ~~read:~~

3 ~~11106. (a) In order to assist in the investigation of crime, the~~
4 ~~prosecution of civil actions by city attorneys pursuant to paragraph~~
5 ~~(3) of subdivision (b), the arrest and prosecution of criminals, and~~
6 ~~the recovery of lost, stolen, or found property, the Attorney General~~
7 ~~shall keep and properly file a complete record of all copies of~~
8 ~~fingerprints, copies of licenses to carry firearms issued pursuant~~
9 ~~to Section 26150, 26155, 26170, or 26215, information reported~~
10 ~~to the Department of Justice pursuant to Section 26225 or 29830,~~
11 ~~dealers' records of sales of firearms, reports provided pursuant to~~
12 ~~Article 1 (commencing with Section 27500) of Chapter 4 of~~
13 ~~Division 6 of Title 4 of Part 6, or pursuant to any provision listed~~
14 ~~in subdivision (a) of Section 16585, forms provided pursuant to~~
15 ~~Section 12084, as that section read prior to being repealed, reports~~
16 ~~provided pursuant to Article 1 (commencing with Section 26700)~~
17 ~~and Article 2 (commencing with Section 26800) of Chapter 2 of~~
18 ~~Division 6 of Title 4 of Part 6, that are not dealers' records of sales~~
19 ~~of firearms, information provided pursuant to Section 28255, and~~
20 ~~reports of stolen, lost, found, pledged, or pawned property in any~~
21 ~~city or county of this state, and shall, upon proper application~~
22 ~~therefor, furnish this information to the officers referred to in~~
23 ~~Section 11105.~~

24 ~~(b) (1) The Attorney General shall permanently keep and~~
25 ~~properly file and maintain all information reported to the~~
26 ~~Department of Justice pursuant to the following provisions as to~~
27 ~~firearms and maintain a registry thereof:~~

28 ~~(A) Article 1 (commencing with Section 26700) and Article 2~~
29 ~~(commencing with Section 26800) of Chapter 2 of Division 6 of~~
30 ~~Title 4 of Part 6.~~

1 ~~(B) Article 1 (commencing with Section 27500) of Chapter 4~~
2 ~~of Division 6 of Title 4 of Part 6.~~

3 ~~(C) Chapter 5 (commencing with Section 28050) of Division 6~~
4 ~~of Title 4 of Part 6.~~

5 ~~(D) Any provision listed in subdivision (a) of Section 16585.~~

6 ~~(E) Former Section 12084.~~

7 ~~(F) Section 28000.~~

8 ~~(G) Section 28255.~~

9 ~~(H) Any other law.~~

10 ~~(2) The registry shall consist of all of the following:~~

11 ~~(A) The name, address, identification of, place of birth (state~~
12 ~~or country), complete telephone number, occupation, sex,~~
13 ~~description, and all legal names and aliases ever used by the owner~~
14 ~~or person being loaned the particular firearm as listed on the~~
15 ~~information provided to the department on the Dealers' Record of~~
16 ~~Sale, the Law Enforcement Firearms Transfer (LEFT), as defined~~
17 ~~in former Section 12084, or reports made to the department~~
18 ~~pursuant to any provision listed in subdivision (a) of Section 16585,~~
19 ~~Section 28255, or any other law.~~

20 ~~(B) The name and address of, and other information about, any~~
21 ~~person (whether a dealer or a private party) from whom the owner~~
22 ~~acquired or the person being loaned the particular firearm and~~
23 ~~when the firearm was acquired or loaned as listed on the~~
24 ~~information provided to the department on the Dealers' Record of~~
25 ~~Sale, the LEFT, or reports made to the department pursuant to any~~
26 ~~provision listed in subdivision (a) of Section 16585 or any other~~
27 ~~law.~~

28 ~~(C) Any waiting period exemption applicable to the transaction~~
29 ~~that resulted in the owner of or the person being loaned the~~
30 ~~particular firearm acquiring or being loaned that firearm.~~

31 ~~(D) The manufacturer's name if stamped on the firearm, model~~
32 ~~name or number if stamped on the firearm, and, if applicable, the~~
33 ~~serial number, other number (if more than one serial number is~~
34 ~~stamped on the firearm), caliber, type of firearm, if the firearm is~~
35 ~~new or used, barrel length, and color of the firearm, or, if the~~
36 ~~firearm is not a handgun and does not have a serial number or any~~
37 ~~identification number or mark assigned to it, that shall be noted.~~

38 ~~(3) Information in the registry referred to in this subdivision~~
39 ~~shall, upon proper application therefor, be furnished to the officers~~
40 ~~referred to in Section 11105, to a city attorney prosecuting a civil~~

1 action, solely for use in prosecuting that civil action and not for
2 any other purpose, or to the person listed in the registry as the
3 owner or person who is listed as being loaned the particular firearm.

4 (4) If any person is listed in the registry as the owner of a firearm
5 through a Dealers' Record of Sale prior to 1979, and the person
6 listed in the registry requests by letter that the Attorney General
7 store and keep the record electronically, as well as in the record's
8 existing photographic, photostatic, or nonerasable optically stored
9 form, the Attorney General shall do so within three working days
10 of receipt of the request. The Attorney General shall, in writing,
11 and as soon as practicable, notify the person requesting electronic
12 storage of the record that the request has been honored as required
13 by this paragraph.

14 (c) (1) Any officer referred to in paragraphs (1) to (6), inclusive,
15 of subdivision (b) of Section 11105 may disseminate the name of
16 the subject of the record, the number of the firearms listed in the
17 record, and the description of any firearm, including the make,
18 model, and caliber, from the record relating to any firearm's sale,
19 transfer, registration, or license record, or any information reported
20 to the Department of Justice pursuant to Section 26225, Article 1
21 (commencing with Section 26700) and Article 2 (commencing
22 with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part
23 6, Article 1 (commencing with Section 27500) of Chapter 4 of
24 Division 6 of Title 4 of Part 6, Chapter 5 (commencing with
25 Section 28050) of Division 6 of Title 4 of Part 6, Article 2
26 (commencing with Section 28150) of Chapter 6 of Division 6 of
27 Title 4 of Part 6, Article 5 (commencing with Section 30900) of
28 Chapter 2 of Division 10 of Title 4 of Part 6, Chapter 2
29 (commencing with Section 33850) of Division 11 of Title 4 of Part
30 6, or any provision listed in subdivision (a) of Section 16585, if
31 the following conditions are met:

32 (A) The subject of the record has been arraigned for a crime in
33 which the victim is a person described in subdivisions (a) to (f),
34 inclusive, of Section 6211 of the Family Code and is being
35 prosecuted or is serving a sentence for the crime, or the subject of
36 the record is the subject of an emergency protective order, a
37 temporary restraining order, or an order after hearing, which is in
38 effect and has been issued by a family court under the Domestic
39 Violence Protection Act set forth in Division 10 (commencing
40 with Section 6200) of the Family Code.

~~(B) The information is disseminated only to the victim of the crime or to the person who has obtained the emergency protective order, the temporary restraining order, or the order after hearing issued by the family court.~~

~~(C) Whenever a law enforcement officer disseminates the information authorized by this subdivision, that officer or another officer assigned to the case shall immediately provide the victim of the crime with a "Victims of Domestic Violence" card, as specified in subparagraph (H) of paragraph (9) of subdivision (e) of Section 13701.~~

~~(2) The victim or person to whom information is disseminated pursuant to this subdivision may disclose it as he or she deems necessary to protect himself or herself or another person from bodily harm by the person who is the subject of the record.~~

~~SEC. 2.~~

SECTION 1. Section 27570 of the Penal Code is amended to read:

27570. (a) It is the intent of the Legislature that a violation of Section 27560 or 27565 shall not constitute a "continuing offense" and the statute of limitations for commencing a prosecution for a violation of Section 27560 or 27565 commences on the date that the applicable grace period specified in Section 27560 or 27565 expires.

(b) Sections 27560 and 27565 shall not apply to a person who reports ownership of a firearm after the applicable grace period specified in Section 27560 or 27565 expires if evidence of that violation arises only as the result of the person submitting the report described in Section 27560 or 27565.

(c) Section 27545 shall not apply to a person who reports ownership of a firearm pursuant to subdivision (b) of Section 28000 if evidence of that violation arises only as the result of the person submitting the report described in that subdivision.

~~SEC. 3.~~

SEC. 2. Section 27965 is added to the Penal Code, to read:

27965. Section 27545 does not apply to the receipt, purchase, or other acquisition of ownership of a firearm by a person who reports his or her ownership of that firearm to the Department of Justice pursuant to subdivision (b) of Section 28000 and who is listed with the Department of Justice pursuant to Section 11106 as the registered owner of the firearm.

1 ~~SEC. 4.~~

2 *SEC. 3.* Section 28000 of the Penal Code is amended to read:

3 28000. (a) Except as provided in subdivision (b), a person
4 who is exempt from Section 27545 or is otherwise not required
5 by law to report acquisition, ownership, destruction, or disposal
6 of a firearm, or who moves out of this state with the person's
7 firearm, may report that information to the Department of Justice
8 in a format prescribed by the department.

9 (b) (1) This subdivision applies only to an individual who
10 reports his or her ownership of a firearm to the Department of
11 Justice and states that his or her receipt, purchase, or other
12 acquisition of the firearm is exempt from the requirements of
13 Section 27545 pursuant to Section 27965.

14 (2) A person described in paragraph (1) shall report his or her
15 ownership of a firearm in accordance with the procedures of and
16 in a format prescribed by the department.

17 (3) Unless subdivision (c) applies, firearms shall be registered
18 in accordance with this section within 30 days of the receipt of the
19 report described in paragraph (2) by the department and all fees
20 required by paragraph (3) of subdivision (a) of Section 28230.

21 (c) A firearm that is reported pursuant to subdivision (a) or (b)
22 shall not be entered into the registry specified in Section 11106 as
23 being registered to the person making the report if any of the
24 following applies:

25 (1) The person is prohibited by state or federal law from
26 possessing, receiving, owning, or purchasing a firearm.

27 (2) All fees required by paragraph (3) of subdivision (a) of
28 Section 28230 have not been paid.

29 (3) The firearm is any of the following:

30 (A) Prohibited by Section 16590.

31 (B) An assault weapon as defined in Section 30510 or 30515.

32 (C) A machinegun as defined in Section 16880.

33 (D) A .50 BMG rifle as defined in Section 30530.

34 (E) A destructive device as defined in Section 16460.

35 (4) The person is a minor.

36 (5) The firearm has been reported lost or stolen pursuant to
37 Section 11108.

38 (d) If a firearm is reported pursuant to subdivision (b), in
39 addition to the restrictions set forth in subdivision (c), the firearm

1 shall not be entered into the registry specified in Section 11106 as
2 being registered to that person making the report unless:

3 (1) If the firearm is a handgun, either of the following applies:

4 (A) The person has either a valid firearm safety certificate or
5 an unexpired handgun safety certificate.

6 (B) The person is exempt from the requirement to have a valid
7 firearm safety certificate to purchase or receive a firearm.

8 (2) If the firearm is not a handgun, either of the following
9 applies:

10 (A) The person has a valid firearm safety certificate or an
11 unexpired handgun safety certificate.

12 (B) The person is exempt from the requirement to have a valid
13 firearm safety certificate to purchase or receive a firearm.